



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,311	07/31/2003	Louis Kovach	510685-163	1877
7590	02/08/2006	BRIAN M. BERLINER, ESQ OMELVENY & MYERS LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899	EXAMINER	MCCARRY JR, ROBERT J
			ART UNIT	PAPER NUMBER
			3617	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/631,311	KOVACH ET AL.
	Examiner	Art Unit
	Robert J. McCarry, Jr.	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 17-31 and 33-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 17-31 and 33-46 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17-31 and 33-46 rejected under 35 U.S.C. 103(a) as being unpatentable over Young et al (US 5,749,547) in view of Young et al (US 5,251,856).

Young et al (547) discloses a remote control system for a model train comprised of a user interface in the form of a remote control 12 that is operably connected to a controller 14. The controller contains a microprocessor that receives signals from the remote control 12, interprets them and transmits them through the track to the train. The processor uses a conventional DC offset signal as described in column 5 lines 10-50. The remote 12 is further comprised of buttons for various train controls, as shown in figure 2, and a rotating knob 36 for varying the speed of the train. The speed is varied by varying the voltage of the signal transmitted from the remote 12 and detected and transmitted by the processor. The controller 14 is connected to an electric transformer. The processor in the controller 14 interprets the signal from the remote control 12 and communicates with the transformer as to how much voltage to apply to the track to control the rate of speed of the train. Both the controller 14 and transformer are electrically and mechanically connected to the track, shown in figure 1.

Young et al (547) discloses the system as disclosed above. However Young et al (547) does not disclose the use of a voltage sensor to determine the voltage from the transformer, nor does Young et al (547) disclose the controller to determine the speed of the train responsive to the sensor. Young et al (856) discloses a train control system comprised of voltage sensors U1A and U1B which monitor the voltage provided to the train from the transformer. The controller 114 sends signals to a base unit which take in the information from the controller 114 and the sensors U1A and U1B. It would have been obvious to one of ordinary skill in the art to have applied voltage sensors, like those used in Young et al (856) to the system of Young et al (547) in order to better monitor the speed of the train and to better convey command messages to the vehicles without causing damage to the system or the vehicles.

Regarding claims 27-31 drawn to the method of controlling the speed of a model train. Since the combination of references described above discloses the same structure, it is inherent that the structure would be operated in the same manner.

Response to Arguments

Applicant's arguments filed 01/06/05 have been fully considered but they are not persuasive. In response to applicant's description of the Trainmaster protocol used, the prior art of Young et al (547) and Young et al (856) both describe a protocol used to control the model trains. While the prior art does not specifically refer to the protocol by the trade name, Trainmaster, the same protocol is described. Applicant argues that the prior art of Young et al (856) fails to make up for the deficiencies of the Young et al (547) reference. While the two references may show differing aspects of train control,

Art Unit: 3617

Young et al (856) was only used to show that voltage sensors can be used on model train control systems, like that of Young et al (547).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (571) 272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert J. McCarry, Jr.
Examiner
Art Unit 3617

RJM
July 27, 2005



S. JOSEPH MORANO
SUPERVISORY PATENT EXAMINEE
TECHNOLOGY CENTER 3601